

HOUSE BILL NO. 434

INTRODUCED BY F. WILMER

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT CERTAIN DISABLED PERSONS WITH CERTIFIED REDUCED MUSCLE STRENGTH MAY HUNT DURING GENERAL ARCHERY SEASON WITH A CROSSBOW; AMENDING SECTION 87-2-803, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 87-2-803, MCA, is amended to read:

"87-2-803. Persons with disabilities -- service members -- definitions. (1) Persons with disabilities are entitled to fish and to hunt game birds, not including turkeys, with only a conservation license if they are residents of Montana not residing in an institution and are certified as disabled as prescribed by departmental rule. A person who has purchased a conservation license and a resident fishing license or game bird license for a particular license year and who is subsequently certified as disabled is entitled to a refund for the fishing license or game bird license previously purchased for that license year. A person who is certified as disabled pursuant to subsection (3) and who was issued a permit to hunt from a vehicle for license year 2000 or a subsequent license year is automatically entitled to a permit to hunt from a vehicle for subsequent license years if the criteria for obtaining a permit does not change.

(2) A resident of Montana who is certified as disabled by the department and who is not residing in an institution may purchase a Class A-3 deer A tag for \$6.50 and a Class A-5 elk tag for \$8. A person who has purchased a conservation license and a resident deer license or resident elk license for a particular license year and who is subsequently certified as disabled is entitled to a refund for the deer license or elk license previously purchased and reissuance of the license for that license year at the rate established in this subsection.

(3) A person may be certified as disabled by the department and issued a permit to hunt from a vehicle, on a form prescribed by the department, if the person establishes one or more of the disabilities pursuant to subsection (9).

(4) (a) A person with a disability carrying a permit to hunt from a vehicle, referred to in this subsection (4) as a permitholder, may hunt by shooting a firearm from:

(i) the shoulder, berm, or barrow pit right-of-way of a public highway, as defined in 61-1-101, except a

1 state or federal highway;

2 (ii) within a self-propelled or drawn vehicle that is parked on a shoulder, berm, or barrow pit right-of-way
3 in a manner that will not impede traffic or endanger motorists or that is parked in an area, not a public highway,
4 where hunting is permitted; or

5 (iii) an off-highway vehicle or snowmobile, as defined in 61-1-101, in any area where hunting is permitted
6 and that is open to motorized use, unless otherwise prohibited by law, as long as the off-highway vehicle or
7 snowmobile is marked as described in subsection (4)(d) of this section.

8 (b) This subsection (4) does not allow a permitholder to shoot across the roadway of any public highway
9 or to hunt on private property without permission of the landowner.

10 (c) A permitholder must have a companion to assist in immediately dressing any killed game animal. The
11 companion may also assist the permitholder by hunting a game animal that has been wounded by the
12 permitholder when the permitholder is unable to pursue and kill the wounded game animal.

13 (d) Any vehicle from which a permitholder is hunting must be conspicuously marked with an
14 orange-colored international symbol of persons with disabilities on the front, rear, and each side of the vehicle,
15 or as prescribed by the department.

16 (5) A veteran who meets the qualifications in subsection (9) as a result of a combat-connected injury may
17 apply at a fish, wildlife, and parks office for a regular Class A-3 deer A tag, a Class A-4 deer B tag, a Class B-7
18 deer A tag, a Class B-8 deer B tag, and a special antelope license at one-half the license fee. Fifty licenses of
19 each license type must be made available annually. Licenses issued to veterans under this part do not count
20 against the number of special antelope licenses reserved for people with permanent disabilities, as provided in
21 87-2-706.

22 (6) (a) A resident of Montana who is certified by the department as experiencing blindness, as defined
23 in 53-7-301, may be issued a lifetime fishing license for the blind upon payment of a one-time fee of \$10. The
24 license is valid for the lifetime of the blind individual and allows the licensee to fish as authorized by department
25 rule. An applicant for a license under this subsection need not obtain a wildlife conservation license as a
26 prerequisite to licensure.

27 (b) A person who is certified by the department as experiencing blindness, as defined in 53-7-301, may
28 be issued regular resident deer and elk licenses, in the manner provided in subsection (2) of this section, and
29 must be accompanied by a companion, as provided in subsection (4)(c) of this section.

30 (7) The department shall adopt rules to establish the qualifications that a person must meet to be a

1 companion and may adopt rules to establish when a companion can be a designated shooter for a disabled
2 person.

3 (8) As used in this section, "disabled person", "person with a disability", or "disabled" means or refers
4 to a person experiencing a condition medically determined to be permanent and substantial and resulting in
5 significant impairment of the person's functional ability.

6 (9) A person is entitled to a permit to hunt from a vehicle if the person:

7 (a) is certified by a licensed physician, an advanced practice registered nurse, or a licensed physician
8 assistant to be dependent on an oxygen device or dependent on a wheelchair, crutch, or cane for mobility;

9 (b) is an amputee above the wrist or ankle; or

10 (c) is certified by a licensed physician, an advanced practice registered nurse, or a licensed physician
11 assistant to be unable to walk, unassisted, 600 yards over rough and broken ground while carrying 15 pounds
12 within 1 hour and to be unable to handle and maneuver up to 25 pounds.

13 (10) Certification by a licensed physician, an advanced practice registered nurse, or a licensed physician
14 assistant under subsection (9) must be on a form provided by the department.

15 (11) The department or a person who disagrees with a determination of disability or eligibility for a permit
16 to hunt from a vehicle may request a review by the board of medical examiners pursuant to 37-3-203.

17 (12) (a) A Montana resident who is a member of the Montana national guard or the federal reserve as
18 provided in 10 U.S.C. 10101 or who was otherwise engaged in active duty and who participated in a contingency
19 operation as provided in 10 U.S.C. 101(a)(13) that required the member to serve at least 2 months outside of the
20 state, upon request and upon presentation of the documentation described in subsection (12)(b), must be issued
21 a free resident wildlife conservation license or a Class AAA resident combination sports license, which may not
22 include a bear license, upon payment of the resident hunting access enhancement fee provided for in
23 87-2-202(3)(c), in the license year that the member returns from military service or in the year following the
24 member's return, based on the member's election, and in any of the 4 years after the member's election. A
25 member who participated in a contingency operation after September 11, 2001, that required the member to
26 serve at least 2 months outside of the state may make an election in 2007 or in the year following the member's
27 return, based on the member's election, and in any of the 4 years after the member's election and be entitled to
28 a free resident wildlife conservation license or a free Class AAA resident combination sports license in the year
29 of election and in any of the 4 years after the member's election.

30 (b) To be eligible for the free resident wildlife conservation license or free Class AAA resident

1 combination sports license provided for in subsection (12)(a), an applicant shall, in addition to the written
2 application and proof of residency required in 87-2-202(1), provide to any regional department office or to the
3 department headquarters in Helena, by mail or in person, the member's DD form 214 verifying the member's
4 release or discharge from active duty. The applicant is responsible for providing documentation showing that the
5 applicant participated in a contingency operation as provided in 10 U.S.C. 101(a)(13).

6 (c) A Montana resident who meets the service qualifications of subsection (12)(a) and the documentation
7 required in subsection (12)(b) is entitled to a free Class A resident fishing license in the license year that the
8 member returns from military service or in the year following the member's return, based on the member's
9 election, and in any of the 4 years after the member's election.

10 (d) The department's general license account must be reimbursed by a quarterly transfer of funds from
11 the general fund to the general license account for costs associated with the free licenses granted pursuant to
12 this subsection (12) during the preceding calendar quarter. Reimbursement costs must be designated as license
13 revenue.

14 (13) A person who is certified by a licensed physician or licensed physical therapist, on a form approved
15 by the department, and by the department to be disabled because of reduced muscle strength in a range of 0 to
16 3, as determined by a standardized muscle strength test, may hunt with a crossbow during the regular archery
17 season, as prescribed by department rule. The applicant is responsible for providing documentation showing
18 proof of the muscle strength disability."

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20 **NEW SECTION. Section 2. Effective date.** [This act] is effective March 1, 2010.

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